

General Information Letter: Employer who has received notice from the Internal Revenue Service to disregard W-4 of employee claiming exemption from tax must compute Illinois income tax withholding without regard to that W-4.

March 21, 2001

Dear:

This is in response to your letter dated March 12, 2001, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at [www.revenue.state.il.us](http://www.revenue.state.il.us).

In your letter you have stated the following:

As discussed in our telephone conversation, xxxxxxxxxxxxxxxxxxxxxxxx has presented xxxxxxxxxxxxxxxxxxxxxxxx a W-4 withholding form dated 3/9/01 claiming "exempt" status. Last week a Federal W-4, along with the attached documentation, was forwarded to the IRS.

On March 13, 2001, you sent to me a copy of a letter dated March 9, 2001, from Susan Meredith of the Internal Revenue Service to xxxxxxxxxxxxxxxxxxxx, stating that the W-4 filed by xxxxxxxxxxxxxxxx did not meet the requirements of the Internal Revenue Code, and should be disregarded. The letter further directed that withholding should be computed as if xxxxxxxxxxxxxxxx filing status is "single" and as if he had no exemption allowances. Finally, the letter stated that no W-4 claiming a different status or more exemption allowances could be honored until approved by the Internal Revenue Service.

## **Response**

Illinois income tax regulation 86 Ill. Adm. Code Section 100.7110(c)(1)(B) provides:

If an employer receives a notice from the Internal Revenue Service relative to a particular employee's withholding exemption certificate, which notice necessitates the employer treating such certificate as defective under 26 CFR 31.3402(f)(2)-1(g)(5), then the employer shall withhold Illinois income tax from the employee as follows:

- i) if the employee's Form IL-W-4 claims total exemption from Illinois withholding, on the basis of the maximum number of exemptions specified by the Internal Revenue Service in the notice, or
- ii) if the employee's Form IL-W-4 claims a certain number of exemptions, on the basis of the number of exemptions thus claimed by the employee or on the basis of the maximum number of exemptions specified by the Internal Revenue Service in the notice, whichever is less.

Treasury Regulation Section 31.3402(f)(2)-1(g) requires an employer to submit to the Internal Revenue Service a copy of any certificate received from an employee claiming that the employee is

exempt from withholding. Treasury Regulation Section 31.3402(f)(2)-1(g)(5) provides that the Internal Revenue Service may direct the employer that the certificate is defective and to state the basis on which withholding from the employee shall be computed. This regulation is the authority for the March 9, 2001, letter from Susan Meredith.

Because the Internal Revenue Service has directed that xxxxxxxxxxxx withholding be computed without allowance for any exemptions, 86 Ill. Adm. Code Section 100.7110(c)(1)(B)(ii) requires that his Illinois income tax withholding also be computed using no exemption allowances. Furthermore, no exemption allowances may be used in computing xxxxxxxxxxxx Illinois income tax withholding unless and until a Form W-4 claiming one or more exemption allowances is approved by the Internal Revenue Service.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton  
Deputy General Counsel -- Income Tax